

### **REMARKS**

The present amendment is in response to the Office Action mailed April 2, 2008, in which Claims 1 – 5, 8, 9, 11, 13 and 15 – 20 are rejected.

No claim is amended. Claims 8, 9, 13 and 15 through 20 are cancelled herein. No claim is added. Accordingly, Claims 1 through 5 remain pending.

Favorable reconsideration is respectfully requested.

### **CLAIM REJECTIONS – 35 USC SECTION 112**

The Examiner rejected Claims 13, 19 and 20 under 35 USC Section 112, second paragraph, as being indefinite. The Examiner rejected Claims 8, 9, 13 and 15 – 20 under 35 USC Section 112, first paragraph, as failing to comply with the written description requirement.

Applicants cancelled these rejected claims herein but respectfully do so without prejudice to refiling them for later consideration. Accordingly, Applicants respectfully submit that this rejection is now moot.

### **CLAIM REJECTIONS – 35 USC SECTION 102**

The Examiner rejected Claims 1 – 5, 8, 11, 13 and 15 – 20 under 35 USC Section 102(e) as being anticipated by Streb *et al.* (US2006/0122381).

Applicants respectfully request that this rejection be reconsidered and that the reference be withdrawn. Applicants filed a provisional patent application fully disclosing the invention as set forth in the present application on May 7, 2002. Applicants will submit evidence of this filing, including the stamped Patent Office receipt, under separate cover. The May 7, 2002, filing

date is earlier than the November 7, 2002, priority date of reference to Streb *et al.*

Applicants respectfully request reconsideration of the rejection under 102(e).

### **CLAIM REJECTIONS – 35 USC SECTION 103**

The Examiner rejected Claims 1 – 5, 8, 9, 13 and 15 – 20 under 35 USC Section 103(a) as being unpatentable over anticipated by Streb *et al.* (US2006/0122381) as applied to Claims 1 – 5, 8, 11, 13 and 15 – 20 above, and further in view of Beach (US2003/0084471).

Applicants respectfully traverse this rejection. With respect to the reference to Streb *et al.*, Applicants respectfully submit that this reference should be withdrawn as set forth above.

With respect to the reference to Beach, Applicants respectfully submit that this reference is not capable of anticipating or rendering obvious the invention as presently claimed. Beach claims using double-stranded RNA as the agents to produce RNAi intracellularly. This belongs to the technology platform of “synthetic” siRNA or shRNA (that is, the technology platform made either chemically or by using cultured cells *in vitro*). However, it does not belong to the platform of “expressed” siRNA or shRNA, which is the platform to which the present invention is related. Accordingly one skilled in the art would not refer to Beach for instruction on the recombinant DNA construct presently claimed.

Applicants respectfully request reconsideration of the rejection under 35 USC Section 103(a).

### **SEQUENCE COMPLIANCE NOTICE**

The Examiner required that Applicants provide accompanying SEA ID Nos. where appropriate for the nucleic acid sequences disclosed in the figures and the specification. Applicants amended the specification accordingly herein.

### **REQUEST FOR INTERVIEW**

The undersigned Attorney for Applicants respectfully requests the opportunity to meet with the Examiner in person before another Office Action is issued to discuss the application, the claims as currently pending, and the prior art in an effort to overcome any issues that may remain. The undersigned Attorney for Applicants respectfully requests that the Examiner contact him at the phone number appearing below.

**CONCLUSION**

Applicants respectfully request that a Notice of Allowance be issued in this case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Tom Moga', followed by a horizontal line.

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Dated: **October 2, 2008**

TTM/hs

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